HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION (C) NO.5878 OF 2006

PETITIONER	:	Sanjay Kumar Sahu, S/o. Shri Madho Prasad Sahu, aged about 30 years, Occupation – Mining Contractor, R/o. C/o. Shri Jugal Kishore Sahu, Village – Torla, Post – Bhurka, Disttrict – Raipur (C.G.)
	Vs.	
RESPONDENTS	1.	State of Chhattisgarh Through the Secretary, Department of Mines and Minerals, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
	2.	Union of India, through Secretary, Ministry of Mines, Government of India, Shastri Bhawan, New Delhi.
	3.	Competent Authority, Ministry of Mines, Government of India, (under section 54 of the Mineral Concession rules, 1960) Shastri Bhawan, New Delhi.
	4.	Collector, Raipur (C.G.)
	5.	Shri Ravindra Kumar Agarwal, S/o. Shri Ratan Lal Agarwal, Age not known, R/o. Devendra Nagar, Raipur (C.G.)
	6.	Shri Vipul Jain, S/o. not known, aged not known, R/o. L-114, Sector-3, Geetanjali Nagar, Raipur (C.G.)
	7.	Shri Sanjeev Agarwal, S/o. Shri R.N. Agarwal, Aged about not known, R/o. Sector-3, Devendra Nagar, Raipur (C.G.)
	8.	Shri Subrat Day, S/o. Shri S.C. Day, Aged not known, R/o. Pandri, Raipur (C.G.).

Present : Shri Prashant Jayaswal, learned Sr. Advocate with Shri Ali Asgar, learned counsel for the petitioner.
Shri Yashwant Singh, learned G.A. for respondent No.1.

ORAL ORDER

(Passed on 13th November, 2006)

The petitioner and the respondents 5 to 8, in all five, applied for grant of mining lease to quarry lime stone in an area admeasuring 35.089 hectares comprised in various Khasara numbers of village Lalpur, Patwari

Halka No.95, Raipur Tahsil and District. The State Government entertaining the applications granted mining leases vide its order dated 23.04.2003 marked as Annexure P/2 to the petitioner and respondents 5 to 8 and since then all of them have been exploiting the minerals.

(2) The petitioner by contending that minimum area for grant of mining lease in terms of Clause (c) of Rule 22 (D) of the Mineral Concession Rules, 1960 (for short 'the Rules') shall not be less than 4 hectares, and the State Government of Chhattisgarh ought not have granted less than 4 hectares of land in respect of mineral deposits other than those specified under Clauses (a) and (b) as provided under Clause (c) of Rule 22 (D) of the Rules, preferred a revision to the Central Government. The Central Government by its order dated 19.06.2006, dismissed the revision application filed by the petitioner by observing that the Government of Chhattisgarh for proper and better exploitation of minerals has leased less than four hectares of land in favour of each of the applicants, and that there was no warrant to interfere with the grant of leases. Hence, this writ petition by the aggrieved petitioner.

(3) I heard learned counsel for the parties. The very contention which was urged before the Central Government was reiterated before this Court also. It is true that in terms of clause (c) of Rule 22 (D) of the Rules, minimum area for grant of mining lease in respect of all mineral deposits other than those specified in clauses (a)(b)shall not be less than four hectares. The lease granted in favour of the petitioner and respondents 5 to 8 was in respect of the mineral deposits covered by clause (c) and in that view of the matter, each of the applicants ought to have been granted more than four hectares of land. Despite the apparent

breach of the Rule, the question for consideration for this Court while exercising discretionary power under Article 226 of the Constitution of India is whether it is appropriate and expedient to step in under Article 226 at this distance of time in the peculiar facts-situation of the case.

(4) Having heard learned counsel for the parties, I am not inclined to interfere with the grant of leases at this distance of time, because, I do not find any public mischief or injury to public interest. In the course of hearing, I pointedly asked the learned counsel for the petitioner whether his client has been exploiting mineral deposits in pursuance of the grant made in his favour and he told the Court on instruction that the petitioner as well as respondents 5 to 8 in pursuance of the grants have been exploiting mineral deposits. The grants were made way back in the year 2003 and considerable part of the mining mineral deposits has been exploited by each of the grantees in the areas allotted to them. The petitioner having chosen to exploit the mineral deposits in pursuance of the grant cannot be heard to make any grievance at this distance of time. Moreover, it appears to my mind that the benefit of the prescription that the minimum area for grant of mining lease with regard to the mineral deposits covered by clause (c) shall not be less than four hectares is for the benefit of the State and not for the benefit of the individual applicants. It is not the vested right of any applicant to insist that as a matter of right or course, his application for quarrying lease should be allowed and the State should part with more than four hectares of land for exploitation. The privilege of the State to exploit its own natural resources in its discretion has been parted with in favour of the individuals. At this distance of time, if the Courts were to set at naught the grant made way back in the year 2003, it would not only create problems to all

grantees resulting in avoidable complications and litigations. Looking from that angle also it is not a fit case to step in under Article 226 of the Constitution of India. It is accordingly dismissed. No costs.

Sd/-
Chief Justice